

VIA FEDERAL EXPRESS

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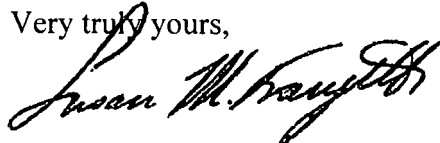
Re: North Bronson Industrial Areas (NBIA) Site
Operable Unit 2 (OU2); Bronson, Michigan
Administrative Order on Consent for RI/FS – Original Respondents' Signature Pages

Dear Mr. Williams:

On behalf of the Respondents, enclosed is a copy of the Administrative Order on Consent for RI/FS ("AOC") with the original, executed signature pages by each of the Respondents. Once the AOC is signed by U.S. EPA, please send the AOC-designated representatives for the Respondents a copy of the fully executed AOC.

If you have any questions, please don't hesitate to contact me.

Very truly yours,



Susan M. Franzetti
Counsel for L.A. Darling Company

SMF:kle

cc (via e-mail): Monesh Chabria, U.S EPA, Region 5
Kathleen Meier – Remedial Project Manager, U.S. EPA, Region 5
Thomas A. Hamilton, Esq.
Jane B. Story
Michael Peters, Esq.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**North Bronson Industrial Area Site
Operable Unit 2 (OU 2)**

**The Scott Fetzer Company, ITT LLC, and
L.A. Darling Company ("Respondents")**

**Proceeding Under Sections 104, 107 and
122 of the Comprehensive Environmental
Response, Compensation, and Liability
Act, 42 U.S.C. §§ 9604, 9607 and 9622.**

U.S. EPA Docket No. **V-W-18-C-003**

**ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY**

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**ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY
NORTH BRONSON INDUSTRIAL AREA
OPERABLE UNIT NO. 2**

I. JURISDICTION AND GENERAL PROVISIONS

This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement" or "AOC") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and The Scott Fetzer Company, ITT LLC, and L.A. Darling (collectively, "Respondents"). The Settlement Agreement concerns the preparation and performance of a Remedial Investigation and Feasibility Study ("RI/FS") for Operable Unit 2 ("OU 2") consisting of areas and media, including groundwater, impacted by leakage from the industrial sewer lines used to carry electroplating and other industrial wastes at or in connection with the North Bronson Industrial Area Site located in the City of Bronson, Michigan ("Site"), and the payment of the Future Response Costs EPA will incur in connection with the RI/FS for Operable Unit 2.

1. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9604, 9607, and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C (Administrative Actions Through Consent Orders) and 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders). The EPA Regional Administrator further re-delegated these authorities to the Director, EPA Region 5 Superfund Division by Regional Delegations 14-14-C and 14-14-D.

2. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the United States Department of Interior, in its capacity as natural resources trustee, on May 16, 2016, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship. In accordance with Section 121(f)(1)(F), of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA has notified the State of Michigan ("State") on May 16, 2016, of negotiations with potentially responsible parties regarding the implementation of the RI/FS for OU 2.

3. EPA and Respondents recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement. Respondents agree to comply with and be bound by this Settlement Agreement and further agree that they will not contest the basis or validity of this Settlement Agreement.

II. PARTIES BOUND

4. This Settlement Agreement applies to and is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

5. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement, the remaining Respondents shall complete all such requirements.

6. Respondents shall ensure that their contractors, subcontractors, and representatives retained to perform work at, or in connection with, OU 2, receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondents shall be responsible for any noncompliance with this Settlement Agreement.

7. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind Respondents to this Settlement Agreement.

III. STATEMENT OF PURPOSE

8. In entering into this Settlement Agreement, EPA's and Respondents' objectives are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants at or from OU 2, by conducting a Remedial Investigation as more specifically set forth in the Statement of Work ("SOW") attached as Appendix A to this Settlement Agreement; (b) to identify and evaluate remedial alternatives that protect human health and the environment by preventing, mitigating, or otherwise responding to or remedying any release or threatened release of hazardous substances, pollutants, or contaminants at or from OU 2, by conducting a Feasibility Study as more specifically set forth in the SOW in Appendix A to this Settlement Agreement; and (c) to recover response and oversight costs EPA incurs with respect to this Settlement Agreement.

9. The Work conducted under this Settlement Agreement is subject to EPA's approval and shall provide all appropriate and necessary information to assess OU 2 conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondents shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidance documents, policies, and procedures.

IV. DEFINITIONS

10. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations.

Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement Agreement as provided in Section XXIX.

“EPA” shall mean the United States Environmental Protection Agency and its successor departments or agencies.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports, and other deliverables submitted pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section XII (Access and Institutional Controls) (including, but not limited to, the cost of attorney time and any monies paid to secure access, including the amount of just compensation), Paragraph 47 (emergency response), community involvement (including, but not limited to, the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e), and the costs the United States incurs in enforcing this Settlement Agreement, including all costs incurred in connection with Section XV (Dispute Resolution), and all litigation costs. Future Response Costs shall also include Agency for Toxic Substances and Disease Registry (“ATSDR”) costs regarding OU 2.

“Institutional controls” shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, ordinances, special building permit requirements, and well drilling prohibitions.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“MDEQ” shall mean the Michigan Department of Environmental Quality and any successor departments or agencies of the State.

“NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“North Bronson Industrial Area Operable Unit 2 Site Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for OU 2 of the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

“Operable Unit 2” and “OU 2” shall mean areas and media, including groundwater, impacted by leakage from the industrial sewer lines owned or operated by the City of Bronson, depicted on Appendix B, to their respective endpoints at the terminus boxes located at the existing lagoons, used to carry electroplating and other industrial wastes at or in connection with the Site.

“Paragraph” shall mean a portion of this Settlement Agreement identified by an Arabic numeral or an upper or lower case letter. References to paragraphs in the SOW will be so identified, e.g., “SOW Paragraph 15.”

“Parties” shall mean EPA and Respondents.

“QAPP” shall mean the Quality Assurance Project Plan described in the SOW.

“RCRA” shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992.

“Respondents” shall mean those Parties identified in Paragraph 21.

“RI/FS Work Plan” shall mean the Work Plan described in the SOW.

“Sampling and Analysis Plan” shall mean the Sampling and Analysis Plan described in Section 5.2.1 of the SOW.

“Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral. References to sections in the SOW will be so identified, e.g., “SOW Section V.”

“Settlement Agreement” shall mean this Administrative Settlement Agreement and Order on Consent, the SOW, all appendices attached hereto and all documents incorporated by reference into this document including, without limitation, EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon EPA approval. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

“Site” shall mean the North Bronson Industrial Area, encompassing approximately 220 acres, located in the northern part of Bronson, Branch County, Michigan, as depicted generally on the map attached as Appendix B, including the industrial sewer lines owned or operated by the City of Bronson. The Site includes two operable units.

“State” shall mean the State of Michigan.

“Statement of Work” or “SOW” shall mean the Statement of Work for development of an RI/FS for OU 2, as set forth in Appendix A to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” shall mean (a) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (d) any “hazardous material” under Michigan Act 190.

“Work” shall mean all activities Respondents are required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).

V. EPA’S FINDINGS OF FACT

11. The Site is located in the City of Bronson, Branch County, Michigan and comprises approximately 220 acres. The Site is located in portions of the northeast quarter of Section 11 and the northwest quarter of Section 12, Township 7 South, Range 8 West, and occupies the northern, industrial area of the City of Bronson.

12. Land use in the surrounding area consists of industrial, residential, and agricultural activities. The population of Bronson in the 2010 census was 2349.

13. In general, a sand and gravel unit underlies the surficial unit of silt, clay and sand to a depth ranging from 7 to 63 feet. Below these units lies an aquitard of silty clay and clay, up to 50 feet thick.

14. An industrial sewer system consisting of two sewers on the NBIA Site operated from approximately 1939 through approximately 1980, and carried wastes from processes including electroplating and cyanide destruction at the former facilities comprising Bronson Plating Company, the former Bronson Reel Company, The Scott Fetzer Company, and L.A. Darling Company.

15. Private wells located within the Site boundary and screened in the upper aquifer were found to be contaminated with Site-related contaminants. All of the impacted wells have been removed from service and all of the affected homes have been connected to the municipal water system. A public water supply well is screened in the lower aquifer. No contaminants were ever found in this well, but because of the proximity of this well to the Site and because of its low yield, the City took this well out of service.

16. Contamination detected at the Site is the result of industrial activity and waste handling practices in the Bronson area since the early 1900’s. To reduce the amount of

contaminants entering CD #30, the City of Bronson constructed seepage lagoons to retain the waste generated by industry. An industrial sewer system was constructed and used to convey waste from the facilities to the lagoons after the lagoons were constructed. Three lagoons were excavated between 1938 and 1950. In 1949, as a result of overtaking, two new lagoons were excavated approximately 1,500 feet to the east. The former Bronson Reel Company, Bronson Plating Company, L.A. Darling Company, and The Scott Fetzer Company reportedly discharged wastes to the lagoons. The City of Bronson operated the industrial sewer system from 1939 to 1980.

17. Hazardous substances, pollutants and contaminants including volatile organic compounds (“VOCs”), semi-volatile organic compounds (“SVOCs”), polychlorinated biphenyls (“PCBs”), and metals including arsenic, chromium, cyanide and lead have been detected in environmental media such as soils, sediments, sludge, groundwater, and/or surface water in CD #30, and the western and eastern lagoons. The potential risk to human health of these constituents was assessed and documented in the NBIA OU 1 Remedial Investigation and Feasibility Study reports, which included an assessment of potential carcinogenic and non-carcinogenic health hazards at the Site.

18. The hazardous substances identified in Paragraph 17, above may pose unacceptable health threats to human receptors through ingestion and dermal contact.

19. Currently, there is no available documentation that indicates whether protected or endangered species are present within OU 2.

20. The North Bronson Industrial Area Site was placed on the National Priorities List (“NPL”) pursuant to CERCLA Section 105, 42 U.S.C. § 9605, effective June 10, 1986. 51 Fed. Reg. 21054 (1986).

21. Respondents to this Order are:

- a. ITT LLC, a business corporation, a successor to the former Bronson Reel Company;
- b. L.A. Darling Company, a business corporation; and
- c. The Scott Fetzer Company, a business corporation.

22. The City of Bronson is the owner and operator of OU 2. The Respondents are “persons” who arranged for the disposal of hazardous substances at OU 2.

23. The State of Michigan commenced a remedial investigation and feasibility study at the Site in September 1988, and issued a Remedial Investigation Report on September 17, 1993 and a Feasibility Study Report on May 5, 1995. The State of Michigan completed a Feasibility Study Addendum in July 1997. On June 19, 1998, the State of Michigan executed a Record of Decision for Operable Unit 1 (“OU 1”) of the Site, in which EPA concurred. In June 1999 the United States, on EPA’s behalf, and the Respondents entered a civil Consent Decree in *United States v. Bronson Plating Company*, case no. 1:99-

cv-490 (W.D. Mich.), in which the Respondents to this matter agreed to implement the OU 1 remedy.

VI. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth in Section V, EPA has determined that:

24. OU 2 of the North Bronson Industrial Area Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

25. The contaminants found at OU 2 include "hazardous substance[s]" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. The conditions described in Paragraphs 14–18 in the Findings of Fact in Section V above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

27. Each Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

a. Each Respondent is a responsible party under Sections 104, 107(a) and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607(a) and 9622, and is jointly and severally liable for performance of the response action and for response costs incurred and to be incurred at the Site.

b. Respondents ITT LLC, L.A. Darling Company, and The Scott Fetzer Company arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances at the facility, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

28. The actions this Settlement Agreement requires are necessary to protect the public health, welfare, or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

29. EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

30. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

31. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 30 days after the Effective Date, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names and qualifications of the contractors and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001; Reissued May 2006) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Settlement Agreement is contingent on Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Settlement Agreement. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within 30 days after the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. EPA will indicate the basis for such subsequent disapproval in writing. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the supervisory personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

32. Within 30 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on site or readily available during the Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 15 days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA 15 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Respondents' Project Coordinator's receipt of any notice or communication from EPA regarding the Work shall constitute receipt by Respondents. Respondents' designated representatives' receipt of any notice or communication from EPA relating to dispute resolution (Section XV) or stipulated penalties (Section XVI) shall constitute receipt by Respondents. Respondents' designated representatives are identified in Appendix C.

33. EPA has designated Kathleen Meier of the EPA Region 5 Superfund Division, Remedial Response Branch 1, as its Remedial Project Manager (“RPM”). EPA will notify Respondents of a change of its designated RPM. Except as otherwise provided in this Settlement Agreement, Respondents shall direct all submissions required by this Settlement Agreement to the RPM at:

Remedial Project Manager, North Bronson Industrial Area Site (OU 2)
U.S. Environmental Protection Agency, Region 5
Superfund Division - Mail Code SR-6J
77 West Jackson Boulevard
Chicago, Illinois 60604

34. EPA’s RPM shall have the authority that the NCP lawfully vests in a Remedial Project Manager and an On-Scene Coordinator (“OSC”). In addition, EPA’s RPM shall have the authority, consistent with the NCP, to halt any Work this Settlement Agreement requires, and to take any necessary response action when he determines that conditions at OU 2 may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA RPM from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

35. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FS Work Plan.

IX. WORK TO BE PERFORMED

36. Respondents shall conduct the RI/FS in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP, and EPA guidance related to the performance of remedial investigations and feasibility studies, including, but not limited to, the “Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA” (“RI/FS Guidance”) (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), “Guidance for Data Usability in Risk Assessment” (OSWER Directive #9285.7-09A, April 1992 or subsequently issued guidance), and guidance referenced therein, and guidance referenced in the SOW, as such guidance may be amended or modified by EPA. The Remedial Investigation (“RI”) shall consist of collecting data to characterize Site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment, and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study (“FS”) shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate, or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from OU 2. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into

account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e).

37. Respondents shall submit all deliverables to EPA and MDEQ in electronic form. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5" by 11", Respondents shall also provide EPA with paper copies of such exhibits.

38. Technical Specifications for Deliverables. Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable ("EDD") format. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

39. Spatial data, including spatially-referenced data and geospatial data, should be submitted: (1) in the ESRI File Geodatabase format and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 ("NAD83") or World Geodetic System 1984 ("WGS84") as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee ("FGDC") Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor ("EME"), complies with these FGDC and EPA metadata requirements and is available at <https://edg.epa.gov/EME/>.

40. Each file must include an attribute name for each OU 2 unit or sub-unit submitted. Consult <http://www.epa.gov/geospatial/policies.html> for any further available guidance on attribute identification and naming.

41. Spatial data submitted by Respondents does not, and is not intended to, define the boundaries of OU 2 or the Site.

42. Upon receipt of the draft FS report, EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability, and effectiveness of any proposed Institutional Controls.

43. Modification of the RI/FS Work Plan.

a. If at any time during the RI/FS process, Respondents identify a need for additional data, Respondents shall submit a memorandum or equivalent deliverable documenting the need for additional data to the EPA RPM within 21 days after identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into plans, reports, and other deliverables.

b. In the event of unanticipated or changed circumstances at OU 2 that affect the ability to perform the Work in a timely manner or to comply with this Settlement Agreement or the NCP, Respondents shall notify the EPA RPM by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA determines

that the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, EPA shall modify or amend the RI/FS Work Plan in writing accordingly. Respondents shall perform the RI/FS Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other Work may be necessary to accomplish the objectives of the RI/FS. EPA may require that Respondents perform these response actions in addition to those required by the initially-approved RI/FS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to EPA within 14 days after receipt of the EPA request. If Respondents object to any modification determined by EPA to be necessary pursuant to this Paragraph, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI/FS Work Plan or written RI/FS Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions at OU 2.

44. Off-Site Shipment.

a. Respondents may ship hazardous substances, pollutants and contaminants from the Site to an off-site facility only if they comply with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents will be deemed to be in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Respondents obtain a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b). Respondents may ship Investigation Derived Waste ("IDW") from the Site to an off-site facility only if Respondents comply with EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992).

b. Respondents may ship Waste Material from OU 2 to an out-of-state waste management facility only if, prior to any shipment they provide written notice to the appropriate state environmental official in the receiving facility's state, if required by applicable state law, and to the EPA RPM. This written notice requirement shall not apply to any off-site shipments when the total quantity of all such shipments will not exceed ten cubic yards. The written notice must include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Respondents also shall notify the state environmental official referenced above, if required by applicable

state law, and the EPA RPM of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Respondents shall provide the written notice after the award of the contract for remedial investigation and feasibility study and before the Waste Material is shipped.

45. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion and with reasonable advance notice to Respondents.

46. Progress Reports. In addition to the plans, reports, and other deliverables set forth in this Settlement Agreement, Respondents shall provide to EPA monthly progress reports by the 15th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (a) describe the actions that have been taken to comply with this Settlement Agreement during that month, (b) include all results of sampling and tests and all other data Respondents receive or shall reference other submittals if the results and data were submitted under separate cover, (c) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (d) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays. If no significant action is occurring, EPA may revise the reports' frequency.

47. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during or relating to performance of the Work that causes or threatens a release of Waste Material from OU 2 that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA RPM or, in the event of his unavailability, the Regional Duty Officer, Region 5 Emergency Planning and Response Branch at (312) 353-2318, of the incident or site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from OU 2, Respondents shall immediately notify the EPA RPM, or the Regional Duty Officer at (312) 353-2318 and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA,

42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

48. After review of any plan, report, or other item that is required to be submitted for approval pursuant to this Settlement Agreement, in a notice to Respondents EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within thirty days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

49. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 48.a, 48.b, 48.c, or 48.e, Respondents shall proceed to take any action required by the plan, report, or other deliverable, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 48.c and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

50. Resubmission.

a. Upon receipt of a notice of disapproval, Respondents shall, within 60 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 60-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 51 and 52, respectively.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Respondents shall not proceed with any activities or tasks dependent on the following deliverables described in the SOW until receiving EPA approval, approval on condition, or modification of such deliverables: RI/FS Work Plan and Sampling and Analysis Plan, Health and Safety Plan, Draft Remedial Investigation Report and Treatability Testing Work Plan, Treatability Testing Sampling and Analysis Plan, Treatability Testing Health and Safety Plan, and Draft Feasibility Study Report. While awaiting EPA approval, approval on

condition, or modification of these deliverables, Respondents shall proceed with all other tasks and activities that may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement Agreement.

d. For all remaining deliverables not listed above in Paragraph 50.c, Respondents shall proceed with all subsequent tasks, activities, and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

51. If EPA disapproves a resubmitted plan, report, or other deliverable, or portion thereof, EPA may direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report, or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified, or developed by EPA, subject only to Respondents' right to invoke the procedures set forth in Section XV (Dispute Resolution).

52. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified, or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

53. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by EPA into the final reports.

54. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

55. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

56. Quality Assurance. Respondents shall assure that Work performed, samples taken, and analyses conducted conform to the requirements of the SOW, the QAPP, and guidance identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories that have a documented quality system that complies with “EPA Requirements for Quality Management Plans (QA/R-2)” (EPA/240/B-01/002, March 2001; Reissued May 2006) or equivalent documentation as determined by EPA.

57. Sampling.

a. All results of sampling, tests, modeling, or other data (including raw data) generated by Respondents, or on Respondents’ behalf, during the period that this Settlement Agreement is effective, shall be submitted to EPA in the next monthly progress report as described in Paragraph 46. EPA will make available to Respondents validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify EPA at least 7 days prior to conducting significant field events as described in the SOW, RI/FS Work Plan, or Sampling and Analysis Plan unless EPA agrees in writing to a shorter time. At EPA’s verbal or written request, or the request of EPA’s oversight assistant, Respondents shall allow EPA and its authorized representatives to take split or duplicate samples of any samples collected in implementing this Settlement Agreement. All split samples of Respondents shall be analyzed by the methods identified in the QAPP. The EPA and State shall provide the results of any split sampling they perform to Respondents.

58. Access to Information.

a. Respondents shall provide to EPA copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as “Records”) within their possession or control or that of their contractors or agents relating to activities at OU 2 or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. Respondents may assert business confidentiality claims covering part or all of the Records submitted to EPA under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Records EPA determines to be confidential will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Respondents that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2,

Subpart B, the public may be given access to such Records without further notice to Respondents. Respondents shall segregate and clearly identify all Records submitted under this Settlement Agreement for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondents assert such a privilege in lieu of providing Records, they shall provide EPA with the following: (i) the title of the Record; (ii) the date of the Record; (iii) the name, title, affiliation (e.g., company or firm), and address of the author of the Record; (iv) the name and title of each addressee and recipient; (v) a description of the contents of the Record; and (vi) the privilege asserted by Respondents. However, no Records created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged or confidential.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other Records evidencing conditions at or around OU 2.

59. In entering into this Settlement Agreement, Respondents waive any objections to any data EPA or the Respondents have gathered, generated, or evaluated in the performance or oversight of the Work that has been verified according to the quality assurance/quality control ("QA/QC") procedures required by the Settlement Agreement or any EPA-approved RI/FS Work Plan or Sampling and Analysis Plan. If Respondents object to any other data relating to the RI/FS, Respondents shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 30 days after the monthly progress report containing the data. This waiver does not apply to any objections to interpretation of the data.

XII. SITE ACCESS AND INSTITUTIONAL CONTROLS

60. If OU 2, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date, provide EPA and its representatives, including contractors, with access at all reasonable times to OU 2, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

61. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 45 days after the EPA's approval of the RI/FS Planning Documents, or as the EPA RPM otherwise specifies in writing. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, EPA may (a) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, using

such means as EPA deems appropriate; (b) perform those tasks or activities with EPA contractors; or (c) terminate the Settlement Agreement. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such tasks or activities. Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports, and other deliverables.

62. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

63. Respondents shall comply with all applicable state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

64. During the pendency of this Settlement Agreement and for a minimum of 6 years after commencement of construction of any remedial action, each Respondent shall preserve and retain all non-identical copies of records, reports, or information (hereinafter referred to as "Records") (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to OU 2, regardless of any corporate retention policy to the contrary. Until 6 years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all Records of whatever kind, nature, or description relating to performance of the Work.

65. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA, Respondents shall deliver any such Records to EPA. Respondents may assert that certain Records are privileged under the attorney-client privilege or any other privilege federal law recognizes. If Respondents assert such a privilege, they shall provide EPA with the following: (a) the Record's title; (b) the Record's date; (c) the Record's name and title; (d) each addressee and recipient's name and title; (d) a description of the Record's subject; and (f)

the privilege Respondents assert. However, no Records created or generated pursuant to this Settlement Agreement's requirements shall be withheld on the grounds that they are privileged or confidential.

66. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, reports, or information (other than identical copies) relating to its potential liability regarding OU 2 since EPA's earlier of notification of potential liability or the filing of suit against it regarding OU 2, and that it has fully complied with any and all EPA requests for information regarding OU 2 pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

67. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

68. If Respondents object to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 21 days after such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 30 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at EPA's sole discretion. Such extension may be granted verbally but must be confirmed in writing.

69. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, Respondents shall submit their Statement of Position, including supporting documentation, within 15 business days. EPA shall submit its Statement of Position, including supporting documents, within 15 business days after receipt of Respondents' Statement of Position. Upon review of the Parties' Statements of Position and supporting documentation, an EPA management official at the Superfund Division Director level or higher will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondents' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

XVI. STIPULATED PENALTIES

70. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 71 through 73 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Settlement Agreement or any activities contemplated under any RI/FS Work Plan or other plan approved under this Settlement Agreement identified below, in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

71. Stipulated Penalty Amounts - Work

a. The following stipulated penalties shall accrue per day for any noncompliance identified in Subparagraph 71(b):

<u>Penalty per Violation per Day</u>	<u>Period of Noncompliance</u>
\$500.00	1 st through 14 th day
\$1,000.00	15 th through 30 th day
\$2,000.00	31 st day and beyond

b. Compliance Milestones: Failure to meet due dates for payments of EPA's Future Response Costs; failure to establish escrow accounts in the event of disputes as provided under Paragraph 85, and failure to timely or adequately implement Work as described in Section III (Tasks 4 and 5) of the SOW in accordance with the Schedule in Exhibit A of the SOW.

72. Stipulated Penalty Amounts - RI/FS Planning Documents, Reports and Technical Memoranda

a. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate plans, reports, technical memoranda or other written documents required by Section III: (Tasks 1 through 7) of the SOW in accordance with the Schedule in Exhibit A of the SOW:

<u>Penalty per Violation per Day</u>	<u>Period of Noncompliance</u>
\$400.00	1 st through 14 th day
\$750.00	15 th through 30 th day
\$1,500.00	31 st day and beyond

73. Respondents shall be liable for stipulated penalties in the amount of \$500.00 per day for the first week or part thereof and \$1,000.00 per day for each week or part thereof

thereafter for failure to meet any other obligation under this Settlement Agreement including the SOW that is not otherwise addressed in Paragraphs 71 or 72 of this Settlement Agreement.

74. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (b) with respect to a decision by the EPA management official designated in Paragraph 69 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

75. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement Agreement, EPA may give Respondents written notification of the same and describe the noncompliance. EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

76. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures under Section XV (Dispute Resolution). Respondents shall make all payments required by this Paragraph to EPA by Fedwire Electronic Funds Transfer to:

Non-responsive [REDACTED]

and shall reference stipulated penalties, **Site ID Number 051C**, and the EPA docket number for this action.

Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to:

Thomas Williams
Site Attorney
Office of Regional Counsel
Mail Code C-14J

Kathleen Meier
Remedial Project Manager
Superfund Division
Mail Code SR-6J

77 West Jackson
Chicago, IL 60604-3590

77 West Jackson
Chicago, IL 60604-3590

77. The payment of penalties shall not alter in any way Respondents' obligation to complete performance of the Work required under this Settlement Agreement.

78. Penalties shall continue to accrue as provided in Paragraph 74 during any dispute resolution period, but need not be paid until 30 days after the dispute is resolved by agreement or by receipt of EPA's decision, unless the decision is that no penalties are due.

79. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 75.

80. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting EPA's ability to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). However, EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Settlement Agreement, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (EPA's Reservation of Rights), Paragraph 89. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

81. Respondents agree to perform all of this Settlement Agreement's requirements within the time limits established herein, unless a *force majeure* delays performance. For purposes of this Settlement Agreement, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity they control, including but not limited to their contractors and subcontractors, that delays or prevents performance of any obligation under this Settlement Agreement despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

82. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondents shall notify EPA orally within 15 days of when Respondents first knew that the event might cause a delay. Within 30 days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or its effect;

Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in Respondents' opinion, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

83. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

84. Payments of Future Response Costs.

a. Respondents shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, but not less frequently than annually, EPA will send Respondents a bill requiring payment that includes an Itemized Cost Summary, showing direct and indirect costs EPA and its contractors have incurred for OU 2. Respondents shall make all payments within 45 days after receipt of each bill requiring payment, except as otherwise provided in Paragraph 85 of this Settlement Agreement. Payments shall be made to EPA by one of the following methods:

i. Fedwire Electronic Funds Transfer ("EFT") to:

Non-responsive

[REDACTED]

ii. by Automated Clearinghouse ("ACH") to:

Non-responsive

[REDACTED]

Non-responsive

and shall reference Site ID Number 051C and the EPA docket number for this action.

iii. online, at <https://www.pay.gov> to the U.S. EPA account in accordance with instructions to be provided to Respondents by EPA.

iv. by official bank check made payable to “EPA Hazardous Substance Superfund.” Each check, or a letter accompanying each check, shall identify the name and address of the party(ies) making payment, the Site name, Site CERCLIS ID Number MID005480900 and the EPA docket number for this action, and shall be sent to:

US Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
PO Box 979076
St. Louis, MO 63197-9000

At the time of payment, Respondents shall send notice that payment has been made to Remedial Project Manager Kathleen Meier and to the EPA Cincinnati Finance Center by email at cinwd_acctsreceivable@epa.gov, or by mail to

EPA Cincinnati Finance Office
Two W. Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference Site ID Number 051C and EPA docket number for this action.

b. Interest. If Respondents do not pay Future Response Costs within 45 days after Respondents’ receipt of a bill, Respondents shall pay Interest on the unpaid balance. The Interest on unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents’ failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondents shall make all payments required by this Paragraph in the manner described in Paragraph 84.

85. Respondents may contest payment of any Future Response Costs billed under Paragraph 84 if they determine that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Such objection shall be made in writing within 30 days after receipt of the bill and must be sent to the EPA RPM. Any such objection shall

specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondents shall within the 30-day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 84. Simultaneously, Respondents shall establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation, and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the EPA RPM a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within 5 days after the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 84. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 84. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

XIX. EPA'S COVENANT NOT TO SUE

86. In consideration of the actions that will be performed and the payments that Respondents will make under this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Paragraph 84 (Payment of Future Response Costs). This covenant not to sue extends only to Respondents and does not extend to any other person.

XX. EPA'S RESERVATIONS OF RIGHTS

87. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit EPA's or the United States' power and authority to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from OU 2. Further, nothing in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

88. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. liability for failure by Respondents to meet a requirement of this Settlement Agreement;
- b. liability for costs incurred at or in connection with OU 2 prior to this Order's Effective Date and other costs not included within the definition of Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for violations of federal or state law that occur during or after implementation of the Work;
- f. with the exception of claims related to OU 1, which were settled in the OU 1 RD/RA Consent Decree, liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- g. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- h. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to OU 2 not paid as Future Response Costs under this Settlement Agreement.

89. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondents may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs EPA incurs in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondents shall pay pursuant to Section XVIII (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. RESPONDENTS' COVENANT NOT TO SUE

90. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which Future Response Costs have or will be incurred, including any claim under the United States Constitution, the Michigan Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or

c. any claim pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law relating to the Work or payment of Future Response Costs.

91. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Section XX (EPA's Reservations of Rights), other than in Paragraphs 88.a (liability for failure to meet a requirement of the Settlement Agreement) or 88.d (criminal liability), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

92. Respondents reserve, and this Settlement Agreement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of Respondents' plans, reports, other deliverables, or activities.

93. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

94. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any of Respondents' acts or omissions.

95. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law,

including but not limited to any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

96. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. EFFECT OF SETTLEMENT/CONTRIBUTION

97. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section XXI (Covenant Not to Sue by Respondents), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to OU 2 against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

98. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Respondent has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are the Work and Future Response Costs. The Parties further agree that this Settlement Agreement does not bar the Respondents from seeking recovery, or from bringing any other action allowed by law or pursuant to separate agreement among the Respondents regarding their participation in this Settlement Agreement, against any Respondent(s) who fail(s) to comply with this Settlement Agreement for any reason.

99. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which each Respondent has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

100. Each Respondent shall, with respect to any suit or claim it may bring for matters related to this Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Each Respondent also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, each Respondent shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

101. In any subsequent administrative or judicial proceeding EPA, or the United States on EPA's behalf, initiates, for injunctive relief, recovery of response costs, or other relief relating to OU 2, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the EPA's covenant set forth in Section XIX.

102. Effective upon a Respondent's signature to this Settlement, such Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Respondent the payment(s) required by Section XVIII (Payment of Response Costs) and, if any, Section XVI (Stipulated Penalties) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the "matters addressed" as defined in Paragraph 98 and that, in any action brought by the United States related to the "matters addressed," such Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondents that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing ninety days after the date EPA sends such notice.

XXIV. INDEMNIFICATION

103. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and representatives in carrying out actions pursuant to this Settlement Agreement. In addition, Respondents agree to pay the United States all costs the United States incurs, including but not limited to attorneys' fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Settlement Agreement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

104. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

105. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to OU 2. In addition,

Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to OU 2.

XXV. INSURANCE

106. At least thirty days prior to commencing any on-site Work under this Settlement Agreement, Respondents shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$1,000,000.00, combined single limit, naming the EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondents pursuant to this Settlement Agreement. Within the same period, Respondents shall provide EPA with certificates of such insurance and, upon EPA's request a copy of each insurance policy. Respondents shall submit such certificates each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement Agreement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

107. Within 120 days after the Effective Date, Respondents shall establish and maintain financial security for EPA's benefit in the amount of \$1,000,000.00 in one or more of the following forms, in order to secure Respondents' full and final completion of Work:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance, issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
- e. a written guarantee to pay for or perform the Work provided by one or more parent companies or subsidiaries of Respondents, or by one or more unrelated companies that have a substantial business relationship with at least one of the Respondents, including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f);

f. a demonstration of sufficient financial resources to pay for the Work made by one or more of Respondents, which shall consist of a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f); and/or

g. any other financial mechanism acceptable to, and approved by, EPA.

108. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 30 days after receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 107, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days after such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

109. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Paragraph 107.e or 107.f, Respondents shall (a) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (b) resubmit sworn statements conveying to EPA the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, or such other date as EPA agrees to. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of \$1,000,000.00 for the Work.

110. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 107 of this Section, Respondents may, on any anniversary date of the Effective Date or no more than once during any twelve-month period, or at any other time the Parties agree to, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving EPA's written approval. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

111. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to EPA and EPA's prior written approval, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

112. Upon EPA's advance written agreement, Respondents may thereafter release, cancel or discontinue the financial assurance instrument(s) provided pursuant to this Section. A Respondent, may request that EPA execute a document in a form acceptable to EPA and consistent with EPA policy, confirming that the financial assurance instrument may be released, cancelled, or discontinued to the extent required or requested by the issuer of the financial assurance instrument.

XXVII. INTEGRATION/APPENDICES

113. This Settlement Agreement, Appendix A and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the SOW.

"Appendix B" is the map of the Site, showing the areas addressed as OU 2.

"Appendix C" is the list of Respondents' designated representatives for purposes of notices and communications regarding Sections XV (Dispute Resolution) and XVI (Stipulated Penalties).

XXVIII. ADMINISTRATIVE RECORD

114. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Upon EPA's request, Respondents shall additionally submit any previous studies conducted under state, local, or other federal authorities relating to selection of the response action, and all communications between Respondents and state, local, or other federal authorities concerning selection of the response action.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

115. This Settlement Agreement shall be effective when the Settlement Agreement is signed by the Acting Superfund Division Director or her delegatee.

116. EPA and Respondents may amend this Settlement Agreement by mutual agreement. An amendment shall be in writing and shall be effective when EPA signs it. The EPA RPM does not have the authority to sign amendments to the Settlement Agreement.

117. No informal advice, guidance, suggestion, or comment the EPA RPM or other EPA representatives may make or provide regarding Respondents' reports, plans, specifications, schedules, or other writings shall relieve Respondents of their obligation to obtain any formal approval this Settlement Agreement requires, or to comply with this Settlement Agreement, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

118. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations this Settlement Agreement requires, EPA will provide written notice to Respondents. If EPA determines that any Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI/FS Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 43 (Modification of the RI/FS Work Plan). Respondents' failure to implement the approved, modified RI/FS Work Plan shall be a violation of this Settlement Agreement.

(Signature pages follow)

Agreed this 21 day of December, 2017

For Respondent The Scott Fetzer Company

By: 

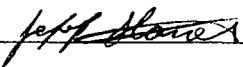
David C. Lamb

(Name printed)

Its Vice President and General Counsel

Agreed this 14th day of DECEMBER, 2017

For Respondent ITT, LLC

By: 

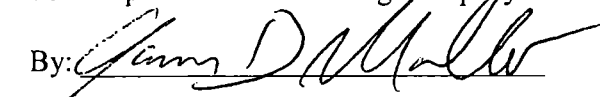
JEFF STANEK
(Name printed)

Its VICE PRESIDENT, ENVIRONMENTAL AFFAIRS

Agreed this 12 day of December, 2017

For Respondent L.A. Darling Company

By:


James D. Mahlo
(Name printed)

Its General Counsel

IT IS ORDERED AND AGREED THIS 3rd day of January, 2018.

By: Robert A. Kaplan
Robert A. Kaplan
Acting Director, Superfund Division
U.S. Environmental Protection Agency, Region 5

APPENDIX A
Statement of Work

1

STATEMENT OF WORK
FOR A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY
AT THE NORTH BRONSON INDUSTRIAL AREA SITE
OPERABLE UNIT 2 (OU2)
BRONSON, MICHIGAN

I. PURPOSE

This Statement of Work (SOW) sets forth the requirements for conducting a Remedial Investigation and Feasibility Study (RI/FS) at the North Bronson Industrial Area (NBIA) Site, Operable Unit 2 (OU2), located in the City of Bronson, Branch County, Michigan. OU2 consists of areas and media, including soil and groundwater, impacted by leakage from the industrial sewer lines used to carry electroplating and other industrial wastes at or in connection with the North Bronson Industrial Area Site ("Site"). OU2 is located in portions of the northeast quarter of Section 11, and the northwest quarter of Section 12, Township 7 South, Range 8 West, which occupies the northern (industrial) area of the City of Bronson and any nearby areas where hazardous substances, pollutants or contaminants from the industrial sewer system or from former operations at the industrial sewer system have or may have come to be located.

The OU2 RI shall evaluate the nature and extent of hazardous substances, pollutants or contaminants at and/or from OU2. The RI Report shall also assess the risk which these hazardous substances, pollutants or contaminants present for human health and the environment. The RI Report shall provide sufficient data to develop and evaluate effective remedial alternatives. The FS Report shall evaluate alternatives for addressing the impact to human health and the environment from hazardous substances, pollutants or contaminants at OU2.

Respondents shall prepare and complete the RI and FS Reports in compliance with the Administrative Order on Consent (AOC), SOW, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 C.F.R. Part 300), as amended, and all requirements and guidance for RI/FS studies and reports including, but not limited to, United States Environmental Protection Agency (EPA) Superfund Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA (EPA/540/G-89/004, October 1988) (RI/FS Guidance), and any other guidance that EPA uses in conducting or submitting deliverables for an RI/FS, as appropriate, recognizing the significant amount of work previously completed in the areas associated with the other NBIA and North Bronson Former Facilities (NBFF) Operable Units. Exhibit B sets forth a partial list of guidance EPA uses for an RI/FS.

Respondents shall furnish all personnel, materials, and services necessary for, or incidental to, performing the RI/FS at OU2, except as otherwise specified herein.

II. DOCUMENT REVIEW

Respondents shall submit all documents or deliverables required as part of this SOW to EPA, with a copy to the Michigan Department of Environmental Quality (MDEQ), for EPA's review and approval. After review of any plan, report or other item which is required to be submitted for

approval pursuant to this AOC, EPA, after reasonable opportunity for its and MDEQ's review and comment, may: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA will not modify a submission without first providing Respondents at least one notice of deficiency and opportunity to cure within 45 days. (See Section X of the AOC for procedures concerning EPA Approval of Plans and Other Submissions).

III. SCOPE

Respondents shall complete the following tasks as part of this RI/FS:

- Task 1: Project Scoping and RI/FS Planning Documents;
- Task 2: Community Relations;
- Task 3: OU2 Characterization;
- Task 4: Remedial Investigation Report;
- Task 5: Treatability Studies (if appropriate);
- Task 6: Development and Screening of Alternatives (Technical Memorandum);
- Task 7: Detailed Analysis of Alternatives (FS Report); and
- Task 8: Progress Reports

TASK 1: PROJECT SCOPING AND RI/FS PLANNING DOCUMENTS

1.1. Site Background

Respondents shall gather and analyze the existing Site background information and, pursuant to Section 1.1.2, if requested by EPA, shall conduct a Site visit to assist in planning the scope of the RI/FS.

1.1.1. Collect and Analyze Existing Data

Before planning the RI/FS activities, Respondents shall thoroughly compile and review all existing relevant data. Historical data shall be submitted electronically according to EPA Region 5 specifications. Existing relevant data includes presently available data relating to the varieties and quantities of hazardous substances, pollutants and contaminants at OU2, past disposal practices, the results of previous sampling activities, the results of previous inspections or evaluations of the industrial sewer system and EPA's air photo analysis of the NBIA Site. Additional existing data and information about OU2 is included in the NBIA RI/FS. Existing data may also include geological and hydrogeological data collected during previous NBIA OU1 and NBFF Site work relevant to OU2.

1.1.2. Conduct Site Visit

If requested by EPA, respondents shall visit the Site during the project scoping phase to develop a better understanding of OU2, and focus on the sources and the areas of contamination, as well as potential exposure pathways and receptors at OU2. During the Site visit (if needed), Respondents shall observe, to the extent possible, the Site's physiography, hydrology, geology, and demographics, as well as natural resources, ecological and cultural features. The Respondents shall coordinate this visit with the EPA Remedial Project Manager (RPM).

1.2. RI/FS Planning Documents (Work Plan/Field Sampling Plan/QAPP)

1.2.1. General Requirements

Within 90 calendar days after the AOC's effective date, Respondents shall submit draft RI/FS Planning Documents specific to OU2 (including the Work Plan (WP)/Field Sampling Plan (FSP), Quality Assurance Project Plan (QAPP), and Health and Safety Plan (HASP) to EPA, with copies to the MDEQ, for review and approval by EPA. To the extent practicable, Respondents may utilize and modify (specific to OU2) existing EPA approved Planning Documents that exist for NBIA OU1 or the NBFF Sites.

The objective of the RI/FS Planning Documents is to develop an RI/FS strategy and general management plan that accomplishes the following:

- A RI that determines the nature and extent of the release or threatened release of hazardous substances, pollutants, or contaminants at and from OU2. In performing this investigation, Respondents shall gather sufficient data, samples, and other information to characterize the nature and extent of the contamination at OU2, to support the human health and ecological risk assessments, and to provide sufficient data for the identification and evaluation of remedial alternatives for OU2. To the extent practicable, Respondents may utilize and modify (specific to OU2) existing EPA approved human health and ecological risk assessments that exist for NBIA OU1 or the NBFF Sites.
- A FS that identifies and evaluates alternatives for remedial action to protect human health and the environment by preventing, eliminating, controlling or mitigating the release or threatened release of hazardous substances, pollutants, or contaminants at and from OU2.

When scoping the specific aspects of the project, Respondents shall meet with EPA, with an invitation to MDEQ to participate, to discuss all project planning decisions and special concerns associated with OU2.

The RI/FS Planning Documents shall include a description of the tasks Respondents shall perform, the information needed for each task, a description of the information Respondents shall produce during and at the conclusion of each task, and a description of the work products that Respondents shall submit to EPA, with a copy to MDEQ. This includes the deliverables set forth in this SOW (See Exhibit A, Schedule for Major Deliverables); a schedule for each of the required activities consistent with the RI/FS Guidance and other relevant guidance; and a project management plan including a data management plan (e.g., requirements for project management systems and software, minimum data requirements, requirements for submittal of electronic data,

data format and backup data management), monthly reports to EPA, with a copy to MDEQ, and meetings and presentations to EPA and MDEQ at the conclusion of each major phase of the RI/FS. Respondents shall refer to Appendix B of the RI/FS Guidance for a description of the required contents of the RI/FS Planning Documents.

The RI/FS Planning Documents shall include the preliminary objectives for the remedial action at OU2; preliminary potential state and federal Applicable or Relevant and Appropriate Requirements (ARARs) (chemical-specific, location-specific and action-specific); a description of the OU2 management strategy Respondents and EPA develop during scoping; a preliminary identification of remedial alternatives; and data needs for characterizing the nature and extent of the contamination at OU2, evaluating risks and developing and evaluating remedial alternatives. The RI/FS Planning Documents shall reflect coordination with treatability study requirements, if any. The RI/FS Planning Documents shall also include a process for and manner of refining and/or identifying additional Federal and State ARARs, and for preparing the human health and ecological risk assessments and the FS.

1.2.2. Specific Requirements

Respondents shall prepare the RI/FS Planning Documents as described in, "Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA," October, 1988. To the extent practicable, Respondents may utilize and modify (specific to OU2) existing EPA approved Planning Documents that exist for NBIA OU1 or the NBFF Sites and shall include:

1.2.2.1. OU2 Background

The OU2 Background section shall include a brief summary of the site location, description, physiography, hydrology, geology, demographics, ecological, cultural and natural resource features, OU2 history, description of previous investigations and responses that local, state, federal, or private parties have conducted at OU2, and data evaluations and project planning completed during the scoping process.

The Site Background section shall discuss areas of waste handling and disposal activities, the locations of existing groundwater monitoring wells, if any, and previous surface water, sediment, soil, groundwater, and air sampling locations, and shall include a summary description of available data and identify areas where hazardous substances, pollutants or contaminants were detected and the detected levels. Relevant data from the previous RI/FS and additional information Respondents submitted to EPA may be utilized and incorporated into this Section as appropriate. The Site Background section shall include tables displaying the minimum and maximum levels of detected hazardous substances, pollutants or contaminants in OU2 areas and media.

1.2.2.2 Work Plan/Field Sampling Plan

Respondents shall prepare or update (subject to EPA approval and meeting current submission requirements) the WP/FSP portion of the RI/FS Planning Documents (which may include an update to the existing EPA approved FSP for the NBIA OU1 that is OU2-specific) to ensure that

sample collection and analytical activities are conducted in accordance with technically acceptable protocols and that the sample collection and data meet the OU2-specific Data Quality Objectives (DQOs) as established in the QAPP and FSP. All sampling and analyses performed shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with EPA guidance.

Upon EPA's request, Respondents shall have such a laboratory analyze samples EPA submits for quality assurance monitoring. Respondents shall provide EPA with the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure the provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon EPA's request, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples Respondents or their contractors or agents collect. Respondents shall notify EPA and MDEQ not less than 15 business days in advance of any sample collection activity, unless a shorter time period is agreed to by all parties. EPA shall have the right to take any additional samples that it determines to be necessary.

1.2.2.3. Data Gap Description/Data Acquisition

As part of the FSP, Respondents shall analyze the currently available data. Respondents shall identify those areas of OU2 and nearby areas that require data and evaluation in order to define the condition of the industrial sewer, extent of hazardous substances, pollutants or contaminants. This Section of the FSP shall include a description of the number, types, locations of samples to be collected, and sequencing to maximize data usefulness. The FSP shall include an environmental program to accomplish the following:

- Conduct OU2 Reconnaissance (in consultation with EPA) including:
 - Surveys including the industrial sewer alignment, boundary, utility rights-of-way, and topographic information;
 - Land Survey;
 - Topographic Mapping; and
 - Field Screening
- Conduct Geological Investigations (soils and sediments) to determine the extent of hazardous substances, pollutants or contaminants in surface soils, subsurface soils and sediments in or near the industrial sewers at OU2 including:
 - Perform Soil Borings;
 - Collect Surface and Subsurface Soil Samples;
 - Collect Sediment Samples in industrial sewers;
 - Survey soil gases; and
 - Identify real-world horizontal, vertical, and elevation coordinates for all samples and site features in accordance with EPA Region 5 electronic data requirements.

- If deemed necessary by the EPA, conduct Air Investigations to determine the extent of atmospheric hazardous substances, pollutants or contaminants at and from OU2, which shall include:
 - Collect Air Samples
 - Establish Air Monitoring Station
- Conduct Hydrogeological Investigations (groundwater) to determine the horizontal and vertical distribution of hazardous substances, pollutants or contaminants in the groundwater and the extent, fate and transport of any groundwater plumes containing hazardous substances, pollutants or contaminants at OU2 including:
 - Installing monitoring well networks;
 - Conduct VAS transects, as appropriate;
 - Collecting samples;
 - Measuring groundwater depth and elevations;
 - Evaluating flow and hydrodynamics; and
 - Modeling, if deemed necessary during OU2 characterization.
- Conduct Vapor Intrusion (VI) Investigations to assess the potential for vapor intrusion of hazardous substances, pollutants or contaminants at and from OU2 using the following multiple lines of evidence approach:
 - Develop a VI specific Conceptual Site Model for OU2 to determine if relevant pathways from OU2 exist by examining, to the extent that the source of the hazardous substances, pollutants or contaminants is determined to be the industrial sewer lines depicted on Appendix B of the AOC and not other potential sources on the Site: the contaminant source extent, including depth and distance to buildings and utilities; geology (including preferential pathways); chemical type and concentrations; building and receptor characteristics.
 - Where relevant pathways exist, conduct soil gas investigations at and near potentially impacted structures, followed by building specific investigations, as appropriate, to the extent that the source of the hazardous substances, pollutants or contaminants is determined to be the industrial sewer lines depicted on Appendix B of the AOC and not other potential sources on the Site.
- Conduct a Geophysical Investigation where data gaps exist to locate underground sewer systems; delineate fill and/or waste depths, thicknesses and volume; the elevations of the underlying natural soil layer and the extent of cover over fill areas including the following, as appropriate:
 - Magnetometer
 - Electromagnetic
 - Ground-Penetrating Radar
 - Seismic Refraction/Reflection
 - Resistivity
 - Cone Penetrometer Survey
 - Radiological Investigation

- Test Pits, trenches and soil borings
- **Conduct Ecological Investigation.** The Respondents shall conduct ecological investigations to assess the impact to aquatic and terrestrial ecosystems from the disposal, release and migration of hazardous substances, pollutants or contaminants at OU2 including:
 - Wetland and Habitat Delineation
 - Wildlife Observations
 - Community Characterization
 - Endangered Species Identification
 - Biota Sampling and Population Studies
- Characterize and dispose of investigation-derived wastes in accordance with local, state, and federal regulations as specified in the FSP.
- Evaluating and documenting the need for Treatability Studies. If Respondents or EPA identify remedial actions that involve treatment, Respondents shall include treatability studies as outlined in Task 5 of this SOW unless Respondents satisfactorily demonstrate to EPA that such studies are not needed. When treatability studies are needed, Respondents shall plan initial treatability testing activities (such as research and study design) to occur concurrently with OU2 characterization activities.

1.2.2.4. Quality Assurance Project Plan (QAPP)

Respondents shall update the existing EPA approved QAPP for the NBIA OU1 that is OU2-specific and covers sample analysis and data handling for samples collected during the RI, based on the AOC and guidance EPA provides. The QAPP shall be in accordance with “EPA Requirements of Quality Assurance Project Plans (QA/R-5)” (EPA/240/B-01/003, March 2001) and “EPA Guidance for Quality Assurance Project Plans (QA/G-5)” (EPA/600/R-02/009, December 2002), the Uniform Federal Policy for Quality Assurance Project Plans (UFP-QAPP) Manual (EPA/505/B-04/900A, March 2005), the “EPA Uniform Federal Policy for Quality Assurance Project Plans Optimized UFP-QAPP Worksheets (March 2012), and EPA “Guidance on Systematic Planning Using the Data Quality Objectives Process” (February 2006) or equivalent documentation as determined by EPA. The QAPP may include field based analytical methods, if appropriate and scientifically defensible.

Respondents shall demonstrate, in advance and to EPA’s satisfaction, that each laboratory it may use is qualified to conduct the proposed work. This includes use of methods and analytical protocols for the chemicals of concern in the media sampled within detection and quantification limits consistent with both QA/QC procedures and data quality objectives (DQOs) EPA approves in the OU2 QAPP. The laboratory must have and follow an approved QA program. If a laboratory not in the Contract Laboratory Program is selected, methods consistent with CLP methods that would be used for the purposes EPA proposes and QA/QC procedures EPA approves shall be used. Respondents shall only use laboratories which have a documented Quality Assurance Program which complies with ANSI/ASQC E-4 1994, “Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental

Technology Programs,” (American National Standard, January 5, 1995) and “EPA Requirements for Quality Management Plans (QA/R-2)” (EPA/240/B-01-002, March 2001) or equivalent documentation as determined by EPA.

Respondents shall participate in a pre-QAPP meeting or conference call with EPA. The purpose of this meeting or conference call is to discuss QAPP requirements and obtain any clarification needed to update the QAPP suitable for approval.

1.2.2.5. Health and Safety Plan

Respondents shall prepare a Health and Safety Plan (HASP) that conforms to its health and safety program and complies with the Occupational Safety and Health Administration (OSHA) regulations and protocols outlined in 29 C.F.R. Part 1910. Respondents may utilize the EPA approved HASP from NBIA OU1 and modify according specific to OU2. The Health and Safety Plan shall be in accordance with EPA’s Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). The Health and Safety Plan shall include the 11 elements described in the RI/FS Guidance such as a health and safety risk analysis, a description of monitoring and personal protective equipment, medical monitoring, and site control. EPA does not “approve” the Respondent’s Health and Safety Plan, but rather reviews it to ensure that all the necessary elements are included, and that the plan provides for the protection of human health and the environment, and after that review provides comments as may be necessary and appropriate. The safety plan must, at a minimum, follow EPA’s guidance document Standard Operating Safety Guides (Publication 9285.1-03, PB92-963414, June 1992).

TASK 2: COMMUNITY INVOLVEMENT SUPPORT AND TECHNICAL ASSISTANCE PLAN

EPA has the responsibility of developing and implementing community involvement activities for OU2. The critical community involvement planning steps performed by EPA and MDEQ include conducting community interviews and developing a Community Involvement Plan. Although implementing the Community Involvement Plan is the responsibility of EPA, the Respondents, if directed by EPA, shall assist by providing reasonably available information regarding the OU2 history; participating in public meetings (on reasonable advance notice); or assisting in preparing fact sheets for distribution to the general public. All Respondent-conducted community involvement activities shall be planned and developed in coordination with EPA.

TASK 3: OU2 CHARACTERIZATION

3.1 Investigate and Define OU2 Physical and Biological Characteristics

Respondents shall implement the Work Plan/Field Sampling Plan and collect data and/or incorporate and update, information in the previous RI on physical and biological characteristics of OU2 including the physical physiography, geology, and hydrology, and specific physical characteristics. This information will be ascertained through a combination of previous reports,

physical measurements, observations, and sampling efforts and will be utilized to define potential transport pathways and human and ecological receptor populations. Recognizing the amount of work completed by the Respondents in the site area associated with NBIA OU1 and the NBIA Former Facilities, the WP/FSP can be streamlined based on the findings of this body of work. Specifically, the contaminants of concern (COCs) list will be focused on the constituents identified in previous Site-related investigations, and their breakdown compounds, as approved by EPA. In defining OU2's physical characteristics, Respondents will also obtain sufficient engineering data for the projection of contaminant fate and transport, and development and screening of remedial action alternatives, including information to assess treatment technologies.

Upon request by EPA, the Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by the Respondents or their contractors or agents. The Respondents shall notify EPA and MDEQ not less than 15 business days in advance of any sample collection activity, unless a shorter time period is agreed to by all parties. The EPA shall have the right to take any additional samples that it deems necessary.

3.2 Define Sources of Contamination

Respondents shall investigate known or suspected sources of contamination at OU2. For each known or suspected source of contamination, Respondents shall determine the areal extent and depth of contamination by sampling. Respondents shall determine the physical characteristics and chemical constituents and their concentrations for all known and discovered sources of contamination. Respondents shall conduct sufficient sampling to define the boundaries of the contaminant sources to the level established in the QAPP and DQOs. Defining the source of contamination will include analyzing the potential for contaminant release (e.g., long term leaching from soil), contaminant mobility and persistence, and characteristics important for evaluating remedial actions, including information to assess treatment technologies.

3.3 Describe the Nature and Extent/Fate and Transport of Contamination

Respondents shall gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, Respondents will utilize the information on OU2 physical and biological characteristics and sources of contamination to give a preliminary estimate of the contaminants that may have migrated. Respondents will then implement an iterative monitoring program and any study program identified in the work plan or sampling plan such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the migration of contaminants through the various media at OU2 can be determined. In addition, Respondents shall gather data for calculations of contaminant fate and transport. This process is continued until the area and depth of contamination are known to the level of contamination established in the QAPP and DQOs. This information will be used to develop a Site Conceptual Model for OU2 that will be updated over time as new information becomes available.

3.3.1 Evaluate OU2 Characteristics

Respondents shall analyze and evaluate the data to describe OU2: (1) physical and biological characteristics; (2) contaminant source characteristics; (3) nature and extent of contamination; and (4) contaminant fate and transport. Results of the OU2 physical characteristics, source characteristics, and extent of contamination analyses are utilized in the analysis of contaminant fate and transport. Respondents shall evaluate the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. If modeling is deemed necessary during OU2 characterization, such models shall be identified to EPA in a technical memorandum prior to their use. All data and programming, including any proprietary programs, shall be made available to EPA together with a sensitivity analysis. The RI data for OU2 shall be presented electronically according to EPA Region 5 format requirements. Analysis of data collected for OU2 characterization will meet the DQOs developed in the QAPP and stated in the FSP (or revised during the RI).

3.3.2. Baseline Human Health Risk Assessment

As an attachment to the RI Report for OU2, Respondents shall prepare and submit a Baseline Human Health Risk Assessment for OU2 report to EPA, with a copy to the MDEQ, for EPA's review and approval. Respondents shall conduct the baseline risk assessment to determine whether OU2 contaminants pose a current or potential risk to human health and the environment. The major components of the baseline risk assessments include contaminant identification, exposure assessment, toxicity assessment, and human health risk characterization.

Respondents shall conduct a baseline human health risk assessment that focuses on actual and potential risks to persons coming into contact with on-site hazardous substances, pollutants or contaminants as well as risks to the nearby residential, recreational and industrial worker populations from exposure to hazardous substances in groundwater and sediment in sewers and associated soils, pollutants or contaminants in groundwater, soils, sediments, surface water, air, soil gas, and ingestion of contaminated organisms in nearby, impacted ecosystems. The human health risk assessment shall define central tendency and reasonable maximum estimates of exposure for current land use conditions and reasonable future land use conditions. The human health risk assessment shall use data from OU2 to identify the contaminants of concern (COC), provide an estimate of how and to what extent human receptors might be exposed to these COCs, and provide an assessment of the health effects associated with these COCs. The human health risk assessment shall assess the potential risk of health problems occurring if no cleanup action is taken at OU2, and establish target action levels for COCs (carcinogenic and non-carcinogenic).

Respondents shall conduct the human health risk assessment in accordance with EPA guidance including, at a minimum: "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A)," Interim Final (EPA-540-1-89-002)," OSWER Directive 9285.7-01A; December 1, 1989; and "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," Interim, (EPA 540-R-97-033), OSWER 9285.7-01D, January, 1998 or subsequently issued guidance.

Respondents shall also conduct the human health risk assessment in accordance with the following additional guidance found in the following EPA OSWER directives:

- 1) "Clarification to the 1994 Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities," OSWER Directive 9200.4-27; August, 1998;
- 2) "Implementation of the Risk Assessment Guidance for Superfund (RAGS) Volume I - Human Health Evaluation Manual, (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments) (Interim)," OSWER Directive 9285.7-01D-1; December 17, 1997;
- 3) "Soil Screening Guidance: Technical Background Document," OSWER Directive 9355.4-17A; May 1, 1996 and "Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites, OSWER Directive 9355.4; March 24, 2001;
- 4) "Soil Screening Guidance: User's Guide," Publication 9355.4-23; April, 1996;
- 5) "Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities," OSWER Directive 9355.4-12; July 14, 1994;
- 6) "Guidance Manual for the Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children," Publication 9285.7-15-1; February, 1994, and associated, clarifying Short Sheets on IEUBK Model inputs, including but not limited to OSWER 9285.7-32 through 34, as listed on the OSWER lead internet site at ;www.epa.gov/superfund/programs/lead/prods.htm;
- 7) "Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children," Version 0.99D, NTIS PB94-501517, 1994 or "Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children," Windows© version, 2001;
- 8) "Risk Assessment Guidance for Superfund: Volume I - Human Health Evaluation Manual: (Part B, Development of Risk-based Preliminary Remediation Goals)," Interim, OSWER Directive 9285.7-01B; December, 1991;
- 9) "Human Health Evaluation Manual, Supplemental Guidance: Update of Standard Default Exposure Factors," OSWER No. 9200.1-120. February 2014; and
- 10) "Exposure Factors Handbook" September 2011 (EPA/600/R-090/052).

Respondents shall also comply with the guidance on assessing human health risk associated with adult exposures to lead in soil as found in the following document: "Recommendations of the Technical Review Workgroup for Lead for an Interim Approach to Assessing Risks Associated with Adult Exposures to Lead in Soil," December, 1996. This document may be downloaded from the Internet at the following address: www.epa.gov/superfund/programs/lead/prods.htm.

Respondents shall prepare the Human Health Risk Assessment report according to the guidelines outlined below:

- Hazard Identification (sources). Respondents shall review available information on the hazardous substances present at OU2 and identify the major contaminants of concern;

- Dose-Response Assessment. Respondents shall select contaminants of concern based on their intrinsic toxicological properties and identify toxicity values from EPA-approved sources as defined in “Human Health Toxicity Values in Superfund Risk Assessments” (OSWER No. 9285.7-53, December 2003);
- Conceptual Exposure/Pathway Analysis. Respondents shall identify and analyze all relevant exposure pathways (e.g., drinking water). The proximity of contaminants to exposure pathways and their potential to migrate into critical exposure pathways shall be assessed;
- Characterization of OU2 and Potential Receptors. Respondents shall identify and characterize human populations in the exposure pathways;
- Exposure Assessment. The exposure assessment will identify the magnitude of actual or potential human exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels. In developing the exposure assessment, Respondents shall develop reasonable maximum estimates and central tendency estimates of exposure for both current land use conditions and potential land use conditions at OU2;
- Risk Characterization. During risk characterization, Respondents shall compare chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure assessment, to measured levels of contaminant exposure levels and, if deemed necessary to evaluate risk, the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near OU2 are affecting or could potentially affect human health. The health risks shall be compared with acceptable risk levels established in the National Contingency Plan (NCP; USEPA, 1990);
- Identification of Limitations/Uncertainties. Respondents shall identify critical assumptions (e.g., background concentrations and conditions) and uncertainties in the report; and
- Site Conceptual Model. Based on contaminant identification, exposure assessment, toxicity assessment, and risk characterization, Respondents shall develop a conceptual model of OU2.

3.3.3 Baseline Ecological Risk Assessment

As an attachment to the RI Report, the Respondents shall submit a Baseline Ecological Risk Assessment report to EPA, with a copy to MDEQ, for review and approval by EPA. In the ecological risk assessment report, the Respondents shall evaluate and assess the risk to the

environment posed by OU2 contaminants. Respondents shall prepare the ecological risk assessment report in accordance with EPA guidance including, at a minimum: "Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments, (EPA-540-R-97-006, June 1997), OSWER Directive 9285.7-25 and shall follow the guidelines outlined below:

- Hazard Identification (sources). The Respondents shall review available information on the hazardous substances present at OU2 and identify the major contaminants of concern.
- Dose-Response Assessment. The Respondents must select contaminants of concern based on their intrinsic toxicological properties.
- Conceptual Exposure/Pathway Analysis. Critical exposure pathways (e.g., surface water) shall be identified and analyzed. The proximity of contaminants to exposure pathways and their potential to migrate into critical exposure pathways shall be assessed.
- Characterization of OU2 and Potential Receptors. The Respondents shall identify and characterize environmental exposure pathways.
- Selection of Chemicals, Indicator Species, and End Points. In preparing the assessment, the Respondents will select representative chemicals, indicator species (species that are especially sensitive to environmental contaminants), and end points on which to concentrate.
- Exposure Assessment. In the exposure assessment, Respondents must identify the magnitude of actual or environmental exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels. In developing the exposure assessment, the Respondents shall develop reasonable maximum estimates of exposure for both current land use conditions and potential land use conditions at OU2.
- Toxicity Assessment/Ecological Effects Assessment. The toxicity and ecological effects assessment will address the types of adverse environmental effects associated with chemical exposures, the relationships between magnitude of exposures and adverse effects, and the related uncertainties for contaminant toxicity (e.g., weight of evidence for a chemical's carcinogenicity).
- Risk Characterization. During risk characterization, Respondents shall compare chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure assessment, to measured levels of contaminant exposure levels and, if deemed necessary to evaluate risk, the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near OU2 are affecting or could potentially affect the environment.

- Identification of Limitations/Uncertainties. The Respondents shall identify critical assumptions (e.g., background concentrations and conditions) and uncertainties in the report.
- Site Conceptual Model. Based on contaminant identification, exposure assessment, toxicity assessment, and risk characterization, the Respondents shall develop a conceptual model of OU2.

3.4 Current and Future Land Uses and Reuse Assessment

As an Attachment to the RI Report, Respondents shall submit a Memorandum to EPA, for review and approval, with a copy to MDEQ, that evaluates the current and reasonably anticipated future land uses at OU2. Information from previously EPA-approved RI Reports for NBIA OU1 and NBFF may be used. The Memorandum shall identify: 1) past uses including title and lien information; 2) current uses of the site and neighboring areas; 3) the owner's plans for the site following cleanup and any prospective purchasers; 4) applicable zoning laws and ordinance; 5) current zoning; 6) applicable local area land use plans, master plans and how they affect the site; 7) existing local restrictions on property; 8) property boundaries; 9) groundwater use determinations, wellhead protection areas, recharge areas and other areas identified in the state's Comprehensive Ground Water Protection Program; 10) flood plains, wetland, or endangered or threatened species; and 11) utility rights of way.

If EPA, in its sole discretion, determines that a Reuse Assessment is necessary, Respondents will perform the Reuse Assessment in accordance with EPA guidance, including, but not limited to: "Reuse Assessments: A Tool to Implement the Superfund Land Use Directive," OSWER 9355.7-06P, June 4, 2001, upon request of EPA. The Reuse Assessment should provide sufficient information to develop realistic assumptions of the reasonably anticipated future uses for OU2.

TASK 4: REMEDIAL INVESTIGATION (RI) REPORT

Within 120 calendar days following the receipt of the last set of analytical data collected as part of the RI or unless otherwise approved by EPA, the Respondents shall submit to EPA for review and approval, with a copy to the MDEQ, an RI Report for OU2. The RI Report shall be consistent with the AOC and this SOW, and shall accurately establish OU2 characteristics such as media contaminated, extent of contamination, and the physical boundaries of the contamination. Pursuant to this objective, Respondents shall obtain all the essential amount of data necessary to determine the movement of key contaminants (i.e., constituents present above remedial goals, once identified) and extent of contamination at and from the industrial sewer system. Key contaminant(s) must be selected based on persistence and mobility in the environment and the degree of hazard. The key contaminant(s) identified in the RI shall be evaluated for receptor exposure and an estimate of the key contaminant(s) level reaching human or environmental receptors must be made. Respondents shall use current standards and guidelines such as drinking-water standards, water-quality criteria, and other federal and state (i.e., MDEQ Part 201) criteria EPA accepts as appropriate for OU2 specific conditions to identify key contaminant(s) and evaluate effects on human and environmental receptors that may be

exposed to the key contaminant(s) above appropriate standards or guidelines. Respondents shall complete the RI Report in accordance with the following requirements:

Respondents shall submit an RI Report to EPA for review and approval, with a copy to MDEQ, pursuant to Section 2, which includes the following:

- Executive Summary;
- Site Background;
- Investigation (as applicable)
 - OU2 Reconnaissance
 - Field Investigation & Technical Approach
 - Chemical Analysis & Analytical Methods
 - Field Methodologies
 - Biological
 - Surface Water
 - Sediment
 - Soil Borings
 - Soil Sampling
 - Monitoring Well Installation
 - Groundwater Sampling
 - Hydrogeological Assessment
 - Air Sampling
 - Soil Gas Sampling
 - Waste Investigation
 - Geophysical Investigation
- Site Characteristics (as applicable)
 - Geology
 - Hydrogeology
 - Meteorology
 - Demographics and Land Use
 - Ecological Assessment
 - Hydrodynamics
- Nature and Extent of Contamination
 - Contaminant Sources
 - Contaminant Distribution and Trends
- Fate and Transport
 - Contaminant Characteristics
 - Transport Processes
 - Contaminant Migration Trends

- Human Risk Assessment
 - Hazard Identification (sources)
 - Dose-Response Assessment
 - Prepare Conceptual Exposure/Pathway Analysis
 - Characterization of OU2 and Potential Receptor\Exposure Assessment
 - Risk Characterization
 - Identification of Limitations/Uncertainties
 - Site Conceptual Model

- Ecological Risk Assessment
 - Hazard Identification (sources)
 - Dose-Response Assessment
 - Prepare Conceptual Exposure/Pathway Analysis
 - Characterization of OU2 and Potential Receptors
 - Selection of Chemicals, Indicator Species, and End Points
 - Exposure Assessment
 - Toxicity Assessment/Ecological Effects Assessment
 - Risk Characterization
 - Identification of Limitations/Uncertainties
 - Site Conceptual Model

- Summary and Conclusions

Information from previous EPA-approved RI reports for NBIA OU1 and NBFF sites may be used, as appropriate.

TASK 5: TREATABILITY STUDIES

If EPA or Respondents determine that treatability testing is necessary, Respondents shall conduct treatability studies. If applicable, Respondents shall use the testing results and operating conditions in the detailed design of the selected remedial technology. Respondents shall perform the following activities.

5.1 Determine Candidate Technologies and the Need for Testing

Respondents shall submit a Candidate Technologies and Testing Needs Technical Memorandum 90 calendar days following EPA approval of the Final RI Report to EPA for review and approval, with a copy to the MDEQ, identifying candidate technologies for a treatability studies program. The list of candidate technologies shall cover the range of technologies required for alternatives analysis. Respondents shall determine and refine the specific data requirements for the testing program during OU2 characterization and the development and screening of remedial alternatives.

5.1.1 Conduct Literature Survey and Determine the Need for Treatability Testing

Within the Candidate Technologies and Testing Needs Technical Memorandum, Respondents shall conduct a literature survey to gather information on the performance, relative costs, applicability, removal efficiencies, operation and maintenance (O&M) requirements, and implementability of candidate technologies. Respondents shall conduct treatability studies except where Respondents can demonstrate to EPA's satisfaction that they are not needed.

5.2 Treatability Testing and Deliverables

5.2.1 Treatability Testing Work Plan and Sampling and Analysis Plan (SAP)

If EPA determines that treatability testing is necessary, EPA will decide on the type of treatability testing to use (e.g., bench versus pilot). Within 60 days of EPA's request, Respondents shall submit a Treatability Testing Work Plan and a SAP, or amendments to the original RI/FS Work Plan, FSP and QAPP to EPA for review and approval, with a copy to the MDEQ, describing OU2 background, the remedial technology(ies) to be tested, test objectives, experimental procedures, treatability conditions to be tested, measurements of performance, analytical methods, data management and analysis, health and safety, and residual waste management. Respondents shall document the DQOs for treatability testing as well. If pilot scale treatability testing is to be performed, the Treatability Study Work Plan shall describe pilot plant installation and start-up, pilot plant operation and maintenance procedures, operating conditions to be tested, a sampling plan to determine pilot plant performance, and a detailed health and safety plan. As necessary, the plans shall address all permitting (or permitting equivalent) requirements. The requirements of SAPs are outlined in Task 1.2.2 of this SOW.

5.2.2 Treatability Study Health and Safety Plan

If the original Health and Safety Plan is not adequate for defining the activities to be performed during the treatability tests, Respondents shall submit a separate or amended Health and Safety Plan within 60 days of EPA's request. Task 1.2.2 of this SOW provides additional information on the requirements of the Health and Safety Plan. EPA and the MDEQ review, but do not "approve" the Treatability Study Health and Safety Plan.

5.2.3 Treatability Study Evaluation Report

Following the completion of the treatability testing, Respondents shall analyze and interpret the testing results in a technical report to EPA and MDEQ. Respondents shall submit the treatability study report according to the schedule in the Treatability Study Work Plan. This report may be a part of the OU2 Characterization Technical Memorandum, the RI Report or submitted as a separate deliverable. The Treatability Study Evaluation Report shall evaluate each technology's effectiveness, implementability and cost, and actual results as compared with predicted results. The report shall also evaluate full scale application of the technology, including a sensitivity analysis identifying the key parameters affecting full-scale operation.

TASK 6: DEVELOPMENT AND SCREENING OF ALTERNATIVES (Technical Memorandum)

Respondents shall develop and screen an appropriate range of remedial alternatives that they will evaluate. This range of alternatives shall include, as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but which vary in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed; options involving containment with little or no treatment; options involving both treatment and containment; and a no-action alternative. Respondents shall perform the following activities as a function of the development and screening of remedial alternatives.

6.1 Alternatives Development and Screening Deliverable

Respondents shall prepare and submit one technical memorandum for this task that incorporates the following items: Remedial Action Objectives, Alternatives Arrays Screening, and Comparative Analysis of Alternatives. Information from previous EPA-approved technical memorandum for NBIA OU1 and NBFF sites may be used, as appropriate. For each of these three items, informal meetings with EPA, either in person or via conference call/WebEx depending on the complexity, with an invitation to MDEQ to participate, will be used in an iterative process to get Agency input, comments, and approval of: Remedial Action Objectives, Alternatives Arrays Screening, and Comparative Analysis of Alternatives. For each item, Agency approval may include approval of the meeting summary notes, including consensus on each of the three items listed above. Following EPA approval of the Comparative Analysis of Alternatives, a technical memorandum that incorporates all three items, which are described below, will then be prepared and submitted to EPA, with a copy to the MDEQ, for EPA's review and approval.

6.1.1 Remedial Action Objectives

Based on the baseline human health and ecological risk assessments, Respondents shall document the OU2-specific remedial action objectives. The remedial action objectives shall specify the contaminants and media of concern, potential exposure pathways and receptors; and contaminant level or range of levels (at particular locations for each exposure route) that are protective of human health and the environment. Remedial action objectives shall be developed by considering the factors set forth in 40 C.F.R. § 300.430(e)(2)(i).

6.1.2 Alternatives Arrays Screening

The Alternatives Arrays Screening shall summarize the work performed and the results of each of the above tasks, and shall include an alternatives array summary. If EPA requires, the Respondents shall modify the alternatives array to assure that it identifies a complete and appropriate range of viable alternatives to be considered in the detailed analysis. The Alternatives Screening shall document the methods, supporting rationale and results of the alternatives screening process.

6.1.2.1 Develop General Response Actions

In the Alternatives Screening, Respondents shall develop general response actions for each medium of interest including containment, treatment, excavation, pumping, or other actions, singly or in combination, to satisfy the EPA-approved remedial action objectives.

6.1.2.2 Identify Areas or Volumes of Media

In the Alternatives Screening, Respondents shall identify areas or volumes of media to which the general response actions may apply, taking into account requirements for protectiveness as identified in the remedial action objectives. Respondents shall also take into account the chemical and physical characterization of OU2.

6.1.2.3 Identify, Screen, and Document Remedial Technologies

In the Alternatives Screening, Respondents shall identify and evaluate technologies applicable to each general response action to eliminate those that cannot be implemented at OU2. Respondents shall refine applicable general response actions to specify remedial technology types.

Respondents shall identify technology process options for each of the technology types concurrently with the identification of such technology types or following the screening of considered technology types. Respondents shall evaluate process options on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more representative processes for each technology type. Respondents shall summarize and include the technology types and process options in the Alternatives Screening. Whenever practicable, the alternatives shall also consider the CERCLA preference for treatment over conventional containment or land disposal approaches.

In the Alternatives Screening, Respondents shall provide a preliminary list of alternatives to address contaminated soil, sediments, surface water, groundwater, and air contamination at OU2 that shall consist of, but is not limited to, treatment technologies, removal and off-site treatment/disposal, removal and on-site disposal, and in-place containment for soils, sediments, and wastes. See 40 C.F.R. § 300.430(e)(1)-(7). Respondents shall specify the reasons for eliminating any alternatives.

6.1.2.4 Assemble and Document Alternatives

Respondents shall assemble the selected representative technologies into alternatives for each affected medium or operable unit. Together, all of the alternatives shall represent a range of treatment and containment combinations that address OU2. Respondents shall prepare a summary of the assembled alternatives and their related ARARs for the Alternatives Screening Technical Memorandum. Respondents shall specify the reasons for eliminating alternatives during the preliminary screening process.

6.1.2.5 Refine Alternatives

Respondents shall refine the remedial alternatives to identify the volumes of contaminated media the proposed processes will address, and size critical unit operations as necessary. Respondents shall collect sufficient information for an adequate comparison of alternatives. Respondents shall

also modify the remedial action objectives for each chemical in each medium as necessary to incorporate any new human health and ecological risk assessment information presented in the Respondents' baseline human health and ecological risk assessment reports. Additionally, Respondents shall update ARARs as the remedial alternatives are refined.

6.1.3 Conduct and Document Screening Evaluation of Each Alternative

Respondents may perform a final screening process based on short and long term aspects of effectiveness, implementability, and relative cost. Generally, this screening process is only necessary when there are many feasible alternatives available for a detailed analysis. If necessary, Respondents shall conduct the screening of alternatives to assure that only the alternatives with the most favorable composite evaluation of all factors are retained for further analysis. As appropriate, the screening shall preserve the range of treatment and containment alternatives that was initially developed. The range of remaining alternatives shall include options that use treatment technologies and permanent solutions to the maximum extent practicable. The Alternatives Screening shall summarize the results and reasoning employed in screening; arrays the alternatives that remain after screening; and identify the action-specific ARARs for the alternatives that remain after screening.

TASK 7: DETAILED ANALYSIS OF ALTERNATIVES (FS REPORT)

Respondents shall conduct and present a detailed analysis of remedial alternatives to provide EPA with the information needed to select an OU2 remedy.

7.1 Detailed Analysis of Alternatives

Respondents shall conduct a detailed analysis of the remedial alternatives for OU2. The detailed analysis shall include an analysis of each remedial option against each of the nine evaluation criteria set forth in 40 C.F.R. § 300.430(e)(9)(iii) and a comparative analysis of all options using the same nine criteria as a basis for comparison.

7.1.1 Apply Nine Criteria and Document Analysis

Respondents shall apply the nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will protect human health and the environment and meet remedial action objectives; will comply with, or include a waiver of, ARARs; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. Evaluation criteria include: (1) overall protection of human health and the environment and how the alternative meets each of the remedial action objectives; (2) compliance with ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state acceptance; and (9) community acceptance. (Note: criteria 8 and 9 are considered after the RI/FS report has been released to the general public.) For each alternative, Respondents shall provide: (1) a description of the alternative that outlines the waste

management strategy involved and identifies the key ARARs associated with each alternative, and (2) a discussion of the individual criterion assessment. If Respondents do not have direct input on criteria (8) or (9), EPA will address those criteria.

7.1.2 Compare Alternatives and Document the Comparison of Alternatives

Respondents shall perform a comparative analysis between the remedial alternatives. That is, Respondents shall compare each alternative against the other alternatives using the evaluation criteria as a basis of comparison. EPA will identify and select the preferred alternative. Respondents shall prepare a Comparative Analysis of Alternatives Technical Memorandum which summarizes the results of the comparative analysis and satisfactorily addresses and incorporates EPA's comments on the Alternatives Screening Technical Memorandum. Respondents shall incorporate EPA's comments on the Comparative Analysis of Alternatives Technical Memorandum in the draft FS Report. Respondents shall submit the Comparative Analysis of Alternatives Memorandum within 30 calendar days after receipt of EPA's comments on the Alternatives Screening Technical Memorandum.

7.1.3. Alternatives Analysis for Institutional Controls

For any Alternatives that rely on Institutional Controls, Respondents shall include in the Alternatives Screening Technical Memorandum, Comparative Analysis of Alternative Technical Memorandum and Feasibility Study an evaluation of the following: 1) Overall Protection of Human Health and the Environment including what specific institutional control components will ensure that the alternative will remain protective and how these specific controls will meet remedial action objectives; 2) Compliance with ARARs; 3) Long Term Effectiveness including the adequacy and reliability of institutional controls and how long the institutional control must remain in place; 4) Short-Term Effectiveness including the amount of time it will take to impose the Institutional Control; 5) Cost including the cost to implement, maintain, monitor and enforce the Institutional Control; 6) State and Community acceptance of the Institutional Control.

7.2 Feasibility Study Report

Within 120 days after receipt of EPA's comments on the Comparative Analysis of Alternatives Technical Memorandum, Respondents shall prepare and submit a draft FS Report to EPA, with a copy to MDEQ, for its review pursuant to Section 2. The FS report shall summarize the development and screening of the remedial alternatives and present the detailed analysis of remedial alternatives. In addition, the FS Report shall also include the information EPA will need to prepare relevant sections of the Record of Decision (ROD) for OU2.

TASK 8: PROGRESS REPORTS

Respondents shall submit monthly written progress reports to EPA, with a copy to MDEQ, concerning actions undertaken pursuant to the AOC and this SOW, beginning with a monthly progress report for the first complete calendar month after the effective date of the AOC, until the termination of the AOC, unless otherwise directed in writing by the RPM. These reports shall

include, but not be limited to, a description of all significant developments during the preceding period, including the specific work that was performed and any problems that were encountered; and the developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and actual or planned resolutions of past or anticipated problems.

Monthly progress reports will summarize the field activities conducted each month, including, but not limited to: problems encountered; solutions to problems; a description of any modifications to the procedures outlined in the RI/FS Work Plan, the FSP, QAPP or Health and Safety Plan, with justifications for the modifications; and upcoming field activities. Within the monthly progress report for the relevant reporting period or a later monthly progress report, but in no event later than 30 days after the information is received by Respondents, Respondents shall provide drilling and sample locations, depths and descriptions; boring logs; sample collection logs; field notes; a summary of all data received and the analytical results; and laboratory data (electronic copies of laboratory data, formatted according to EPA specifications, will be provided to EPA and MDEQ).

EXHIBIT A
SCHEDULE FOR MAJOR DELIVERABLES

DELIVERABLE	DUE DATE
TASK 1.2.1 - RI/FS Planning Documents, including Work Plan/Field Sampling Plan, Quality Assurance Project Plan and Health and Safety Plan	RI/FS Planning documents due 120 calendar days after the effective date of the AOC. Final RI/FS Planning Documents due 45 days after EPA notification of deficiencies pursuant to Section 2 of the SOW and Section X of the AOC.
Task 3 – OU2 Characterization Technical Communications	To be included in the monthly Progress Reports.
TASK 4 - RI Report	Draft RI Report due 120 calendar days following receipt of the last set of analytical data collected as part of the RI. Final RI Report due 60 calendar days after receipt of EPA's notification of deficiencies pursuant to Section 2 of this SOW and Section X of the AOC.
TASK 5.1 - Candidate Technologies and Testing Needs Technical Memorandum, if appropriate.	90 calendar days following EPA approval of the RI Report.
TASK 5.2.1 - Draft and Final Treatability Testing Work Plan and SAP or Amendments to the Original RI/FS Work Plan, FSP and/or QAPP, if appropriate.	Within 60 days of request of EPA.
TASK 5.2.2 - Draft and Final Treatability Testing Health and Safety Plan or Amendment to the Original Health and Safety Plan, if appropriate.	Within 60 days of request of EPA.

DELIVERABLE	DUE DATE
TASK 5.2.3 - Draft and Final Treatability Study Evaluation Report	With the OU2 Characterization Technical Memorandum, the RI Report (Task 4), or as EPA approves in the Work Plan/Field Sampling Plan.
TASK 6 - Remedial Action Objectives Meeting	Agency meeting on or about the draft RI Report due date (Task 4).
TASK 6 - Alternatives Screening Meeting	30 calendar days after EPA approval of the Remedial Action Objectives.
TASK 6 - Comparative Analysis of Alternatives Meeting	30 calendar days after EPA approval of the Alternatives Screening.
TASK 6 – Comparative Analysis of Alternatives Technical Memorandum Incorporating the Remedial Action Objectives, Alternatives Screening, and Comparative Analysis of Alternatives	90 calendar days after EPA approval of the Comparative Analysis of Alternatives.
Task 7 - FS Report	FS Report due 120 calendar days after receipt of EPA's comments on the Comparative Analysis of Alternatives Technical Memorandum. Final FS Report due 90 calendar days after receipt of EPA's notification of deficiency on the draft FS Report pursuant to Section 2 of the SOW and Section X of the AOC.
TASK 8 - Monthly Progress Reports	On the 15 th day of each month or the first business day after the 15th of the month commencing 30 calendar days after the effective date of the AOC.
Miscellaneous Documents	In accordance with the submittal date the RPM provides.

EXHIBIT B
PARTIAL LIST OF GUIDANCE

The following list, although not comprehensive or necessarily current, comprises many of the regulations and guidance documents that apply to the RI/FS process. The most current versions shall be used as appropriate. The majority of these guidance documents, and additional applicable guidance documents, may be downloaded from the following websites:

<http://www.epa.gov/superfund/pubs.htm> (General Superfund) <http://clu.in.org> (Site Characterization, Monitoring and Remediation) <http://www.epa.gov/ORD/NRMRL/Pubs> (Site Characterization and Monitoring) http://www.epa.gov/quality/qa_docs.html#guidance (Quality Assurance) <http://www.epa.gov/superfund/programs/risk/toolthh.htm> (Risk Assessment - Human) <http://www.epa.gov/superfund/programs/risk/tooleco.htm> (Ecological Risk Assessment) <http://www.epa.gov/superfund/programs/lead> (Risk Assessment - Lead) <http://cfpub.epa.gov/ncea> (Risk Assessment - Exposure Factors/Other) <http://www.epa.gov/nepis/srch.htm> (General Publications Clearinghouse) <http://www.epa.gov/clariton/clhtml/pubtitle.html> (General Publications Clearinghouse) https://www.epa.gov/sites/production/files/documents/ufp_qapp_v1_0305.pdf (UFP-QAPP Manual) https://www.epa.gov/sites/production/files/documents/ufp_qapp_worksheets.pdf (UFP-QAPP Worksheets)

1. The (revised) National Contingency Plan;
2. Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA, EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9355.3-01, EPA/540/G-89/004, October 1988.
3. Conducting Remedial Investigations/Feasibility Studies for CERCLA Municipal Landfill Sites, EPA, Office of Emergency and Remedial Response, EPA/540/P-91/001, February 1991.
4. Implementing Presumptive Remedies, EPA, Office of Emergency and Remedial Response, EPA-540-R-97-029, October 1997.
5. Presumptive Remedy for CERCLA Municipal Landfill Sites, EPA, OSWER Directive No. 9355.0-49FS, EPA-540-F-93-035, September 1993.
6. Presumptive Remedies: CERCLA Landfill Caps RI/FS Data Collection Guide, EPA, OSWER 9355.3-18FS, EPA/540/F-95/009, August 1995.
7. Presumptive Response Strategy and Ex-Situ Treatment Technologies for Contaminated Ground Water at CERCLA Sites, OSWER 9283.1-12, EPA-540-R-96-023, October 1996.
8. Field Analytical and Site Characterization Technologies Summary of Applications, U.S. EPA, EPA-542-F-97-024, November 1997.

9. CLU-IN Hazardous Waste Clean-Up Information World Wide Web Site, EPA, EPA-542-F-99-002, February 1999.
10. Field Sampling and Analysis Technology Matrix and Reference Guide, EPA, EPA-542-F-98-013, July 1998.
11. Subsurface Characterization and Monitoring Techniques: A Desk Reference Guide, Volumes 1 and 2, EPA, EPA/625/R-93/003, May 1993.
12. Use of Airborne, Surface, and Borehole Geophysical Techniques at Contaminated Sites: A Reference Guide, EPA, EPA/625/R-92/007(a,b), September 1993.
13. Innovations in Site Characterization: Geophysical Investigation at Hazardous Waste Sites, EPA, EPA-542-R-00-003, August 2000.
14. Innovative Remediation and Site Characterization Technology Resources, EPA, OSWER, EPA-542-F-01-026b, January 2001.
15. Handbook of Suggested Practices for the Design and Installation of Ground-Water Monitoring Wells, EPA, EPA/600/4-89/034, 1991.
16. Ground-Water Sampling Guidelines for Superfund and RCRA Project Managers, U.S. EPA, EPA-542-S-02-001, May 2002.
17. Ground Water Issue: Low-Flow (Minimal Drawdown) Ground-Water Sampling Procedures, EPA, EPA/540/S-95/504, April 1996.
18. Superfund Ground Water Issue: Ground Water Sampling for Metals Analysis, EPA, EPA/540/4-89/001, March 1989.
19. Resources for Strategic Site Investigation and Monitoring, EPA, OSWER, EPA-542-F-010030b, September 2001.
20. Region 5 Framework for Monitored Natural Attenuation Decisions for Groundwater, U.S. EPA Region 5, September 2000.
21. Ground Water Issue: Suggested Operating Procedures for Aquifer Pumping Tests, U.S. EPA, OSWER, EPA/540/S-93/503, February 1993.
22. Technical Protocol for Evaluating Natural Attenuation of Chlorinated Solvents in Ground Water, EPA, EPA/600/R-98/128, September 1998.
23. Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action and

Underground Storage Tank Sites, EPA, OSWER Directive 9200.4-17P, April 21, 1999.

24. Ground Water Issue: Fundamentals of Ground-Water Modeling, EPA, OSWER, EPA/540/S-92/005, April 1992.

25. Assessment Framework for Ground-Water Model Applications, EPA, OSWER Directive #9029.00, EPA-500-B-94-003, July 1994.

26. Ground-Water Modeling Compendium - Second Edition: Model Fact Sheets, Descriptions, Applications and Cost Guidelines, EPA, EPA-500-B-94-004, July 1994.

27. A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents, EPA, Office of Solid Waste and Emergency Response, OSWER Directive No. 9200.1-23P, EPA 540-R-98-031, July 1999.

28. Region 5 Instructions on the Preparation of A Superfund Division Quality Assurance Project Plan Based on EPA QA/R-5, Revision 0, EPA Region 5, June 2000.

29. Guidance for the Data Quality Objectives Process (QA-G-4), EPA, EPA/600/R-96/055, August 2000.

30. Guidance for the Data Quality Objectives Process for Hazardous Waste Sites (QA/G-4HW), EPA, EPA/600/R-00/007, January 2000.

31. Guidance for the Preparation of Standard Operating Procedures (QA-G-6), EPA, EPA/240/B-01/004, March 2001.

32. EPA Requirements for Quality Management Plans (QA/R-2), EPA, EPA/240/B-01/002, March 2001.

33. EPA Requirements for QA Project Plans (QA/R-5), EPA, EPA/240/B-01/003, March 2001.

34. Guidance for Quality Assurance Project Plans (QA/G-5), EPA, EPA/600/R-98/018, February 1998.

35. Users Guide to the EPA Contract Laboratory Program, EPA, Sample Management Office, OSWER Directive No. 9240.0-01D, January 1991.

36. Technical Guidance Document: Quality Assurance and Quality Control for Waste Containment Facilities, EPA, EPA/600/R-93/182, 1993.

37. Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part A), EPA, EPA/540/1-89/002, December 1989.

38. Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part B, Development of Risk-Based Preliminary Remediation Goals), EPA, EPA/540/R-92/003, OSWER Publication 9285.7-01B, December 1991.
39. Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part C - Risk Evaluation of Remedial Alternatives), EPA, Office of Emergency and Remedial Response, Publication 9285.7-01C, October, 1991.
40. Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part D - Standardized Planning, Reporting, and Review of Superfund Risk Assessments), EPA, Office of Emergency and Remedial Response, Publication 9285.7-47, December 2001.
41. Risk Assessment Guidance for Superfund: Volume III - Part A, Process for Conducting Probabilistic Risk Assessment, EPA, OSWER Publication 9285.7-45, EPA-540-R-02-002, December 2001.
42. Policy for Use of Probabilistic in Risk Assessment at the U.S. Environmental Protection Agency, EPA, Office of Research and Development, 1997.
43. Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors, EPA, OSWER Directive 9285.6-03, March 25, 1991.
44. Exposure Factors Handbook, Volumes I, II, and III, EPA, EPA/600/P-95/002Fa,b,c, August 1997.
45. Supplemental Guidance to RAGS: Calculating the Concentration Term, EPA, OSWER Publication 9285.7-08I, May 1992.
46. Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities, EPA, OSWER Directive 9355.4-12, EPA/540/F-94/043, July 14, 1994.
47. Clarification to the 1994 Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities, EPA, OSWER Directive 9200.4-27, EPA/540/F-98/030, August 1998.
48. Guidance Manual for the Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children, EPA, OSWER Publication 9285.7-15-1, February 1994; and associated, clarifying Short Sheets on IEUBK Model inputs, including but not limited to OSWER 9285.7-32 through 34, as listed on the OSWER lead internet site at www.epa.gov/superfund/programs/lead/prods.htm.
49. Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children, Version 0.99D, NTIS PB94-501517, 1994 or Integrated Exposure Uptake Biokinetic (IEUBK) Model for Lead in Children, Windows© version, 2001,

50. Role of the Baseline Risk Assessment in Superfund Remedy Selection Decisions, EPA, OSWER Directive 9355.0-30, April 22, 1991.
51. Performance of Risk Assessments in Remedial Investigation /Feasibility Studies (RI/FSs) Conducted by Potentially Responsible Parties (PRPs), OSWER Directive No. 9835.15, August 28, 1990.
52. Supplemental Guidance on Performing Risk Assessments in Remedial Investigation Feasibility Studies (RI/FSs) Conducted by Potentially Responsible Parties (PRPs), OSWER Directive No. 9835.15(a), July 2, 1991.
53. Role of Background in the CERCLA Cleanup Program, EPA, OSWER 9285.6-07P, April 26, 2002.
54. Soil Screening Guidance: User's Guide, EPA, OSWER Publication 9355.4-23, July 1996.
55. Soil Screening Guidance: Technical Background Document, EPA, EPA/540/R95/128, May 1996.
56. Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites (Peer Review Draft), EPA, OSWER Publication 9355.4-24, March 2001.
57. Ecological Risk Assessment Guidance for Superfund: Process for Designing & Conducting Ecological Risk Assessments, EPA, OSWER Directive 9285.7-25, EPA-540-R-97-006, February 1997.
58. Guidelines for Ecological Risk Assessment, EPA, EPA/630/R-95/002F, April 1998.
59. The Role of Screening-Level Risk Assessments and Refining Contaminants of Concern in Baseline Ecological Risk Assessments, EPA, OSWER Publication 9345.0-14, EPA/540/F-01/014, June 2001.
60. Ecotox Thresholds, EPA, OSWER Publication 9345.0-12FSI, EPA/540/F-95/038, January 1996.
61. Issuance of Final Guidance: Ecological Risk Assessment and Risk Management Principles for Superfund Sites, EPA, OSWER Directive 9285.7-28P, October 7, 1999.
62. Guidance for Data Usability in Risk Assessment (Quick Reference Fact Sheet), OSWER 9285.7-05FS, September, 1990.
63. Guidance for Data Usability in Risk Assessment (Part A), EPA, Office of Emergency and Remedial Response, Publication 9285.7-09A, April 1992.

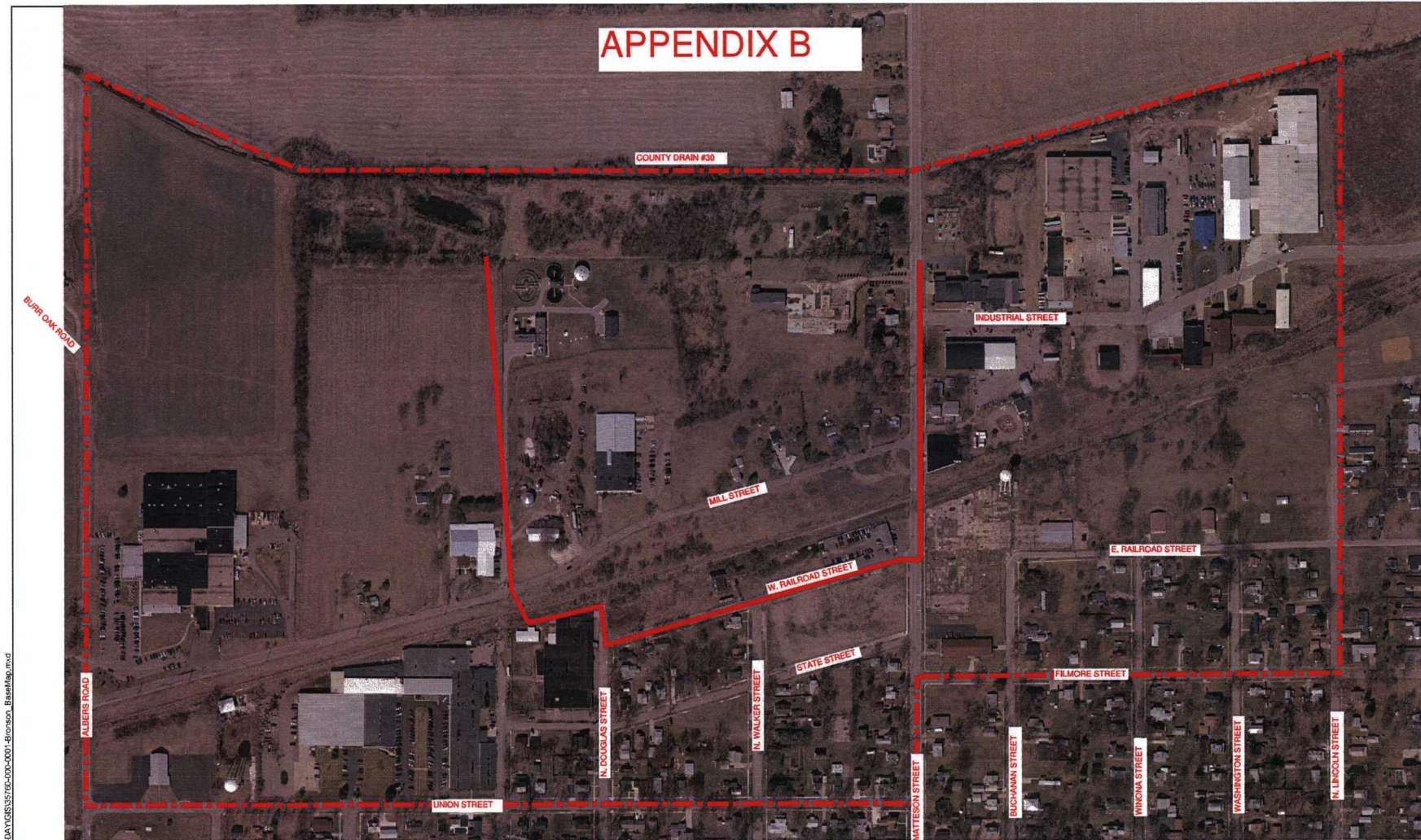
64. Guide for Conducting Treatability Studies Under CERCLA, EPA, EPA/540/R-92/071a, October 1992.
65. CERCLA Compliance with Other Laws Manual, Two Volumes, EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9234.1-01 and -02, EPA/540/G-89/009, August 1988.
66. Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites, U.S. EPA, Office of Emergency and Remedial Response, (Interim Final), OSWER Directive No. 9283.1-2, EPA/540/G-88/003, December 1988.
67. Considerations in Ground-Water Remediation at Superfund Sites and RCRA Facilities - Update, EPA, OSWER Directive 9283.1-06, May 27, 1992.
68. Methods for Monitoring Pump-and-Treat Performance, EPA, EPA/600/R-94/123, June 1994.
69. Pump-and-Treat Ground-Water Remediation A Guide for Decision Makers and Practitioners, EPA, EPA/625/R-95/005, July 1996.
70. Ground-Water Treatment Technology Resource Guide, EPA, OSWER, EPA-542-B-94/009, September 1994.
71. Land Use in the CERCLA Remedy Selection Process, EPA, OSWER Directive No. 9355.7-04, May 25, 1995.
72. Reuse Assessments: A Tool To Implement The Superfund Land Use Directive, EPA, OSWER 9355.7-06P, June 4, 2001.
73. Reuse of CERCLA Landfill and Containment Sites, EPA, OSWER 9375.3-05P, EPA-540-F-99-015, September 1999.
74. Reusing Superfund Sites: Commercial Use Where Waste is Left on Site, EPA, OSWER 9230.0-100, February 2002.
75. Covers for Uncontrolled Hazardous Waste Sites, EPA, EPA/540/2-85/002, 1985.
76. Technical Guidance Document: Final Covers on Hazardous Waste Landfills and Surface Impoundments, EPA, OSWER, EPA/530-SW-89-047, July 1989.
77. Engineering Bulletin: Landfill Covers, EPA, EPA/540/S-93/500, 1993.
78. Principles for Managing Contaminated Sediment Risks at Hazardous Waste Sites, U.S. EPA OSWER Directive 9285.6-08, February 12, 2002.

79. Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups, EPA, OSWER 9355.0-74FS-P, EPA/540-F-00-005, September 29, 2000.
80. Health and Safety Requirements of Employees Employed in Field Activities, EPA, Office of Emergency and Remedial Response, EPA Order No. 1440.2, July 12, 1981.
81. OSHA Regulations in 29 CFR 1910.120, Federal Register 45654, December 19, 1986.
82. Standard Operating Safety Guides, PB92-963414, June 1992.
83. Community involvement in Superfund: A Handbook, EPA, Office of Emergency and Remedial Response, OSWER Directive No. 9230.0#3B June 1988; and OSWER Directive No. 9230.0-3C, January 1992.
84. USEPA's *Guidance on Systematic Planning Using the Data Quality Objectives Process*, February 2006.
https://www.epa.gov/sites/production/files/documents/guidance_systematic_planning_dqo_process.pdf
85. "Uniform Federal Policy for Quality Assurance Project Plans Optimized UFP-QAPP Worksheets (March 2012)
86. USEPA's *Guidance on Systematic Planning Using the Data Quality Objectives Process* (February 2006)

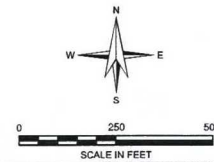
APPENDIX B

Site Map

APPENDIX B



- APPROXIMATE LOCATION OF IND. SEWER (OU2)
- - - APPROXIMATE LOCATION OF SITE BOUNDARIES



**HALEY
ALDRICH**

**NORTH BRONSON INDUSTRIAL
AREA SUPERFUND SITE**

SCALE: AS SHOWN
JULY 2017

APPENDIX C

List of Respondents' Designated Representatives for Purposes of Notices and Communications Regarding Section XV (Dispute Resolution) and XVI (Stipulated Penalties)

**List of Designated Representatives
for Purposes of Notices and Communications Regarding Sections XV
(Dispute Resolution) and XVI (Stipulated Penalties)**

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